IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.Appeal No.279 of 2000

Decided on:October 22, 2007.

State of H.P. **…Appellant.**

VERSUS

Gian Singh **….Respondent.**

Coram

The Hon'ble Mr.Justice Kuldip Singh, Judge.

Whether approved for reporting?[1] No

For the Appellant: **Mr.M.L.Chauhan, Addl.A.G.**

For the respondent: **Mr.Raman Sethi, Advocate.**

Kuldip Singh, Judge (Oral)

This appeal is directed against the judgment dated 13.8.1999 passed by learned Chief Judicial Magistrate, Lahaul and Spiti District at Kullu, exercising the powers of Additional Chief Judicial Magistrate, Kullu in Criminal Case No.167-1 of 1997 acquitting the respondent under Section 33(1) (a) of Indian Forest Act (hereafter referred to as 'the Act').

2. The prosecution case, in brief, is that on 24.8.1996 beat guard Shat while patrolling in Chong IIIrd Forest found that one tree of Devdar, I-A was illicitly felled in the aforesaid forest and timber was converted into logs, but he did not find any person on the spot. Later on it was revealed that tree was cut and converted into small

---

Whether the reporters of the local papers maybe allowed to see the judgment? Yes

logs by respondent. A damage report No.3845/52 dated 24.8.1996 was prepared against the respondent who allegedly confessed his guilt by signing *Ikbalnama* in presence of witness Hari Singh. The timber was taken into possession and handed over to aforesaid Hari Singh on *Supurdari* in the presence of Om Parkash. The respondent was asked to pay the compensation for having cut the tree but he refused. On these grounds respondent was prosecuted, notice of accusation under Section 33(1)(a) of the Act was put to him to which he pleaded not guilty and claimed trial. The prosecution examined four witnesses. The statement of respondent was recorded under Section 313 Cr.P.C. The respondent examined one witness in defence. After conclusion of the trial, the respondent was acquitted.

3. I have heard the learned Additional Advocate General for the State and Mr.Raman Sethi, Advocate for the respondent. The learned Additional Advocate General has submitted that the prosecution has proved the case against the respondent. The learned trial Court has erred in acquitting the respondent. The evidence on the record has been mis-interpreted. The learned counsel for the respondent has submitted that prosecution has failed to prove the case. The respondent has been falsely implicated.

4. PW-1 Fateh Chand, Forest Guard, Beat Shat, has stated that he has prepared damage report Ext.PA and *Ikbalnama* Ext.PB which is signed by respondent. He handed over the seized timber to Hari Singh in presence of Om Parkash. In cross examination, he has stated that he has not seen anybody cutting the tree. He denied the

suggestion that *Ikbalnama* was not signed by the respondent. Ext.PB *Ikbalnama* is allegedly signed by respondent Gian Singh and Hari Singh. PW-1 Fateh Chand has been given specific suggestion on behalf of the accused that *Ikbalnama* was not signed by him. In this situation, statement of PW-4 Hari Singh who allegedly signed *Ikbalnama* Ext.PB as witness is important. PW-4 in his statement has stated that he has signed as *Supurdar* on Ext.PC and in his presence accused never admitted or confessed his guilt. There is no eye witness to prove alleged felling of the *Devdar* tree by respondent. Ext.PB *Ikbalnama* has not been proved by independent witness. The Court below has correctly appreciated the material on record. The prosecution has failed to make out any case against the respondent. The trial Court has taken a possible view from the material on record which does not require any interference.

5. As a result, the appeal is dismissed.

October 22, 2007. ***(Kuldip Singh), J.***

(soni)